

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE LITIGATION

MDL No. 1456

THIS DOCUMENT RELATES TO:
ALL CLASS ACTIONS

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

TRIAL OF CLASS 2 AND 3 CLAIMS

**PLAINTIFFS' MOTION FOR EXTENSION OF TIME
TO RESPOND TO DEFENDANTS' NEW MOTIONS**

At the end of trial, Defendants filed a series of motions and supporting memoranda as follows:

- The BMS Defendants' Motion for Judgment Pursuant to Fed. R. Civ. P. 52(c), Dkt. No. 3469 (12/14/06)
- The Johnson & Johnson Defendants' Motion for Judgment on Partial Findings, Dkt. No. 3483 (12/18/06)
- Track One Defendants' Motion For Judgment on Partial Findings, Dkt. No. 3486 (12/18/06)
- AstraZeneca Pharmaceuticals LP's Motion For Judgment on Partial Findings, Dkt. No. 3488 (12/18/06)
- The BMS Defendants' Motion to Strike Plaintiffs' Exhibit 4012, Dkt. No. 3485 (12/18/06)
- Schering & Warrick's Motion to Strike Portions of Plaintiffs' Exhibit 4012, Dkt. No. 3505 (12/22/06)
- Track 1 Defendants' Memorandum of Law in Response to the Court's Questions Concerning the Implication of Evidence With Respect to Class 3 Named Representatives For the Remainder of the Class, Dkt. No. 3479 (12/15/06)

Plaintiffs respectfully move for leave to file responses to these motions and memoranda on **January 19, 2006** along with Plaintiffs' proposed findings of fact and trial brief. Plaintiffs believe that such an extension is warranted for two reasons.

First, in acknowledging the length of the trial just concluded, the Court repeatedly stated that the parties should not have to work over the holidays, including through New Year's Day. Responding to the above motions any earlier than January 19 would have required Class Counsel to forego long-awaited vacations to work on the motions, contrary to the Court's expressed intent.

Second, many of the issues invoked by the above motions overlap with issues that will be addressed in the proposed findings of fact, and Plaintiffs intend to, in part, refer the Court to those proposed findings when opposing the motions. Therefore, it is much more efficient to address the motions at the time Plaintiffs file their proposed findings on January 19. Indeed, Fed. R. Civ. P. 52 requires the Court to issue findings of fact and conclusions of law – whether it renders a full *or* partial judgment – and the Court will likely want the benefit of reviewing the parties' proposed findings when evaluating these motions.

DATED: January 3, 2007

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CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing **PLAINTIFFS' MOTION FOR EXTENSION OF TIME TO RESPOND TO DEFENDANTS' NEW MOTIONS** to be delivered to all counsel of record by electronic service pursuant to paragraph 11 of the Case Management Order No. 2, by sending on January 3, 2007, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Steve W. Berman

Steve W. Berman